

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-6117

Application of D Solar LLC for a certificate of)
public good for an interconnected group net-metered)
photovoltaic electric power system)

Order entered: 7/29/2015

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves an Application filed by D Solar LLC ("Applicant") on May 5, 2015, requesting a certificate of public good ("CPG") pursuant to 30 V.S.A. §§ 219a and 248 and Board Rule 5.100 for a 50 kW photovoltaic net metering system to be located at 76 Rivervale Road, Shelburne, Vermont (the proposed "Project"). The net metering system is a group system that includes multiple electric meters.

Notice of the Application was issued as specified in Board Rule 5.100 and stated that anyone wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty (30) days of the date that the notice of the Application was sent.

On May 22, 2015, comments were filed by Charles R. and Jean-Carol Dunham and Andrew Marks (the "Neighbors"), property owners adjacent to the Project site.

On June 13, 2015, David and Jesusa Krag (the "Krag"), the owners of the property on which the Project will be built, filed a reply to the Neighbors' comments ("Krag Letter").¹

No other comments were filed with the Board.

The Board has reviewed the Application and accompanying documents and has determined that, pursuant to 30 V.S.A. §§ 219a and 248 and Board Rule 5.100, a CPG should be issued without further investigation or hearing.

1. According to the website of the Vermont Secretary of State, David Krag is the Registered Agent for D Solar LLC.

II. FINDINGS

Based upon the Application and accompanying documents, the Board makes the following findings in this matter.

1. The Project will be located on property owned by the Kraggs at 76 Rivervale Road, Shelburne, Vermont. Application at Section 1.
2. The Project will be erected on a new structure. Application at Section 4.
3. The Project will consist of a photovoltaic system with a total system-rated power output of 50 kW AC. Application at Section 4.
4. The facility will be interconnected with Green Mountain Power Corporation's electrical distribution system. Application Attachment.
5. The Applicant has specified that there will be multiple meters included in the group system. Application Attachment.
6. The Applicant has provided a method for adding meters to and removing meters from the group system. Application Attachment.
7. The Applicant has designated Jesusa Krag as the person responsible for receiving all communications regarding the group system. Application Attachment.
8. All disputes among users of the group system will be resolved by Jesusa Krag. Application Attachment.
9. On behalf of the Applicant, Nik Ponzio, co-founder of Building Energy, has certified that the Project complies with Section 3 of the Application and that the information provided in Sections 4, 7, and 8 of the Application is true and correct. Application at Sections 3, 4, 7, and 8 and Attachments.

III. DISCUSSION & CONCLUSION

Pursuant to 30 V.S.A. § 219a, the Legislature required the Board to develop a net metering program. This program is now embodied in Board Rule 5.100. The goals of the net metering statute are to encourage private investment in renewable energy resources, stimulate the economic growth of the state, and enhance the continued diversification of energy sources used in Vermont. The standards and requirements in Rule 5.100 have been determined by the Board

to protect public safety and system reliability. Our review of this Project has been guided by these considerations.

Based upon the findings made herein, we conclude that the Project complies with the requirements of Board Rule 5.100, that the Application does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, and that the Project will promote the general good of the State.

Neighbors' Comments

In their comments, the Neighbors requested that three changes be made to the Project: the solar array should be moved 20 feet to the north,² vegetative screening should be installed, and an engineering consultation should be required to ensure that the private road leading to the Neighbors' houses is not damaged or, if damaged, then repaired.³ If these changes are not made either through the election of the Applicant or by order of the Board, then the Neighbors seek to have a hearing. Having considered these requests, we have decided not to adopt the recommended changes and decline to hold a hearing.

Aesthetic Impact

The Neighbors argue that the Project will have a negative aesthetic impact on the area and that relocating and screening the Project are appropriate ways to mitigate that alleged negative aesthetic impact. We determine that the Project will not have an undue adverse impact on the aesthetics of the area and that, therefore, the proposed screening and relocation of the Project are not necessary.

Under Board Rule 5.109, in reviewing the aesthetic impacts of a project, the Board applies the *Quechee Test* to determine whether a project's impacts will be unduly adverse. Under this analysis, the first step is to determine if the project's impact will be adverse. A project would be found to have an adverse impact on the aesthetics of an area if its design were deemed to be out of context or not in harmony with the area in which the project is to be located. Specific factors used in making this evaluation include the nature of a project's surroundings, the compatibility of a project's design with those surroundings, the suitability of a project's colors

2. The Project is currently sited 16 feet from a private drive.

3. Letter from Charles R. Dunham to Susan M. Hudson, Clerk of the Board, filed May 22, 2015.

and materials within the immediate environment, the visibility of a project, and the impact of a project on open space.⁴

If it is found that the project's impact would be adverse, it is then necessary to determine whether such an adverse impact would be "undue." Impacts are considered unduly adverse if the project violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area, if the project fails to take generally available mitigating steps to improve the harmony of the project with its surroundings, or if the project would offend the sensibilities of the average person. Additionally, the Board's assessment of whether a particular project will have an "undue" adverse impact based on these three standards is informed by the overall societal benefits of the project.⁵

In this instance, we find that the introduction of the solar array into an existing open field will have an adverse impact upon the aesthetics of the area. However, we are not persuaded that the Project will have an undue adverse aesthetic impact. The Project has been planned to be compatible with the surrounding area. It will be situated in a depression in the land, and the site will be shielded by surrounding vegetation and hedgerows.⁶ The Project will not be located in a mapped view area and will be hidden from public view.⁷ The Project will be of modest size and, therefore, will have a minimal impact on open space.⁸ While the Neighbors will see the Project in passing as they travel to and from their residences, they will not have views of the Project from their residences because of intervening vegetation and because of the placement of the Project.⁹ Therefore, we find that the Project will not have an unduly adverse aesthetic impact, and we have decided not to require that the Project be relocated or additional vegetative screening be installed.

4. *Application of Vermont AllSun Solar IX, LLC, for a certificate of public good, pursuant to 30 V.S.A. §§ 219a and 248 and Board Rule 5.100, for a 500 kW group net-metered photovoltaic electric generation facility to be located in the Town of St. Albans, Vermont, and to be known as the "VASS Nunez Solar Facility", CPG # NMP-5871, Order entered 5/18/15 at 9-10.*

5. *Petition of UPC Vermont Wind, LLC, Docket 7156, Order of 8/8/07 at 65.*

6. Krag letter at 1-2.

7. Krag letter at 1.

8. Krag letter at Figure 1.

9. Krag letter at 2.

Engineering Study

The Neighbors also have requested that an engineering study be performed on the private Rivervale Road and that the Applicant be required to make repairs to any damage to Rivervale Road caused by the construction of the Project. We will not require an engineering study by the Applicant because such damage is speculative. Should damage to the road in fact occur during construction, then the Neighbors may have recourse to legal remedies other than the Board.

Hearing

Finally, the Neighbors request a hearing. Board Rule 5.110(B)(4) provides that the Board may elect to hold a hearing for a net metering system when it determines that a proposed project raises a significant issue with respect to one or more of the criteria of 30 V.S.A. § 248. In turn, a person requesting a hearing must make a showing that the Application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system.¹⁰ The Neighbors' comments have not persuaded us that the Application raises a significant issue. Therefore, we decline to hold a hearing.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that the net metering system proposed for construction and operation by D Solar LLC, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

10. Board Rule 5.110(B)(3) provides: If any person wishes to submit comments to the Board concerning an application filed pursuant to this subsection, file a motion to intervene, or request a technical evidentiary hearing, such correspondence is due at the Board within the time prescribed on the application form instructions. If a person requests a technical evidentiary hearing, the person must make a showing that the application raises a significant issue regarding one or more of the applicable criteria listed in Section 5.108. Such a showing must go beyond general or speculative claims, and provide specific information regarding potential impacts for the criteria or the criteria conditionally waived in that section. *See also*, Net Metering Application Form at 1 ("If you request a hearing, you must make a showing that the application raises a significant issue regarding one or more of the substantive criteria pursuant to 30 V.S.A. § 248.").

Dated at Montpelier, Vermont, this 29th day of July, 2015.

<u>s/ James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/ Margaret Cheney</u>)	
)	BOARD
)	
)	OF VERMONT
<u>s/ Sarah Hofmann</u>)	

OFFICE OF THE CLERK

Filed: July 29, 2015

Attest: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.